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OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth report of States parties due in 1998

Addendum

NEPAL*

[18 March 1999]

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* This document contains the fourteenth report, due on 1 March 1998. For the ninth, tenth, eleventh, twelfth and thirteenth reports of Nepal, submitted in one document, and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/298/Add.1 and CERD/C/SR.1292.

The information submitted by Nepal in accordance with the consolidated guidelines for the initial part of the report of States parties is contained in HRI/CORE/1/Add.42.

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I. COUNTRY PROFILE

A. Geophysical characteristics

1. Nepal is a landlocked country situated between China in the north and India in the east, west and south. It lies between 26° 22' N and 30° 27' N latitude and 80° 4' E to 88° 12' E longitude. It has a land area of 147,181 km^2, with an average length of 885 km, east to west, and a width of 193 km, north to south.

2. The altitude rises from about 70 m from sea level in Terai, the southern plain, to 8,848 m in the high Himalayas to the north. It has a tremendous altitude variation, with a wide range of topography and climates, ranging from the subtropical to the alpine. The annual rainfall ranges between 1,154 mm and 3,620 mm.

3. Topographically, Nepal is divided into three belts: the Mountains (35.21 per cent), the Hills (41.68 per cent) and the Terai (23.11 per cent of total area). For administrative purposes, the country is divided into 5 development regions and 75 districts. These districts are further subdivided into 58 municipalities and 3,912 Village Development Committees (VDCs).

B. History and political structure

4. The history of modern Nepal begins only in 1769 A.D., when the founder of present-day Nepal, King Prithvi Narayan Shah, unified a number of small feudal States into a single State with the valley town of Kathmandu as its capital. In 1846 A.D., following the Kot massacre, the Shah Kings, successors to Prithvi Narayan Shah, lost their power to the Rana Prime Ministers. It was the start of a 104-year Rana family oligarchy. Up to the middle of this century, Nepal was little known outside South Asia.

5. King Tribhuvan Bir Bikram Shah Dev announced the establishment of democracy in Nepal in February 1951, liberating the country from the Rana regime. In 1958 King Mahendra Bir Bikram Shah Dev introduced a new constitution providing for a parliamentary form of government, and the first-ever popular election on the basis of adult franchise was held in early 1959. An elected government took power for the first time in the history of Nepal, but this experiment did not last long. On 15 December 1960, King Mahendra declared an emergency and introduced a partyless *panchayat* system, dismissing the 19-month-old democratically elected Cabinet. A new constitution promulgated in 1961 vested the sovereignty of the State in the Crown, from where all legislative, executive and judicial powers emanated. The King was thus placed in the centre and at the apex of government machinery.

6. As a result of a popular movement launched in 1990, the partyless *panchayat* system was dissolved and a new, democratic constitution was promulgated. A multi-party parliamentary system on the Westminister model was established with the King as head of State (constitutional monarch), the Prime Minister responsible to the Parliament as the head of Government, and an independent judiciary. Parliament includes a House of Representatives of 205 members and a National Assembly or Upper House consisting of 60 members.

7. There are about 40,000 female members (20 per cent) of local bodies (VDCs and municipalities).

C. Characteristics of the population

8. There has been a steady increase in the population of Nepal. In 1961, the population was recorded as 9.4 million, which doubled within 30 years. Accordingly to the census of 1991, the total population of Nepal is 18.5 million, 49.9 per cent male and 50.1 per cent female. Of the total population 52 per cent are children below 18 years of age. About 12 per cent of the population resides in the urban areas and 88 per cent in the rural areas. The annual growth rate of the population during the inter-census period of 1981-1991 was 2.1 per cent as compared with 2.66 per cent during the period 1971-1981. If the current growth rate of 2.1 per cent continues for at least the next 30 years, the present population of 21 million will reach 40 million in 2030. The population distribution by sex and age is given below:

Age group	Percentage of population by sex and age		
	Male	Female	Total
0-14	44.4	41.8	43.1
15-64	52.15	54.6	53.4
65+	3.5	3.6	3.5

Source: Population Projection, 1996, Central Bureau of Statistics, National Planning Commission.

D. Economic overview

9. Agriculture dominates the life and economy of the country. Agriculture contributes more than one half of the household income, provides employment to about 80 per cent of the population, and has a significant bearing on the manufacturing and export sectors. The share of agriculture in GDP, however, has declined consistently in the last two decades when agricultural production grew by only 2.3 per cent annually. The service sector is now assuming a more prominent place in the structure of the economy. The marked increase in the share of the service sector in GDP is mainly attributed to the expansion of trade and tourism services.

10. Poverty has been deeply rooted in the rural and agricultural households. About 14 per cent of the labour force is unemployed.

11. The per capita income stands at US$ 210. Around 18 per cent of the total land area is under cultivation. About 65 per cent of families hold 0.96 hectares of land on average.

12. The first elected democratic Government, formed in 1991, started wide-ranging reforms in the economy. During the Eighth Plan period (1992-1997), the economy grew by an average of 4.9 per cent annually. Nepal's

economy has undergone considerable change in the field of policy and legal reforms favouring economic liberalization. It has also succeeded in allocating a significant amount of funds for rural development.

13. Economic growth averaged 3.9 per cent per year from the 1970s to the 1990s. Due to the high per capita population growth rate income grew by only 1.4 per cent per annum during the last 25 years. With about 45 per cent of the population below the poverty line, the marginal propensity to consume remained very high at 0.867 during 1986-1996.

14. The Government has adopted a liberal, open and market-oriented economic policy aimed at achieving sustainable economic growth, poverty alleviation and the reduction of regional imbalances, and at the same time maintain macro-economic stability. The economic reform process, however, slowed down in 1994 with several political events that led to the instability of the Government. Economic growth also remained unstable or uneven during the Eighth Plan period.

15. Despite some progress in improving the standard of living, poverty alleviation still remains a major challenge for the Government. There is chronic unemployment and underemployment, high population growth, and low educational and health status. The living standard of the socially backward communities has remained lower in the overall context. Therefore, the economic problems of the people have yet to be addressed.

16. Poverty alleviation is one of the main objectives of the Ninth Plan (1997-2002). The agricultural sector has been made the lead sector in reducing poverty and increasing employment opportunities. Agriculture, water resources and tourism have been identified as major sectors in efforts to increase the development process rapidly. A "one family, one employment" policy has also been adopted as a major strategy of the Ninth Plan.

E. Social and cultural characteristics

17. Nepal's marked topographical variations support broad cultural differences. There are about 60 different ethnic groups, speaking about 38 different languages. Inhabitants of the Hills and Mountains are mostly Tibeto-Burman origin, while those of the Terai are largely Indo-Aryan. Fortunately, Nepal enjoys unique social peace and harmony though it is a multi-ethnic and multi-religious country.

18. Nepalese society is male dominated. Men make most of the household decisions in which women have only a supporting role. All girls are socialized in such a way that only enables them to be good wives and serve their husbands. There is a son preference system in almost every community.

19. In Nepal the Indo-Aryan and Tibeto-Burman ethnic groups have two distinct marriage systems. In Indo-Aryan societies the marriage of girls takes place much earlier than in Tibeto-Burman ethnic groups. Among Indo-Aryan societies a young widow is also not supposed to remarry but there is no such restriction among Tibeto-Burman societies. There is greater freedom for girls in Tibeto-Burman societies concerning marriage. Inter-caste marriage is gradually becoming acceptable within certain ethnic groups. In

some ethnic groups in Terai, especially along the Indian border, a dowry system prevails. In a few Tibeto-Burman communities in very remote villages of the country, there still exists a system of polyandry in which a girl marries all the brothers in a family.

F. Caste and ethnicity

20. The people of Nepal are socially segmented along lines of caste and sub-caste and ethnic and sub-ethnic groups. According to the 1991 census, there are more than 60 such groups, along with 20 major language groups. Many groups are endogamous, perform distinct *rites de passage* and maintain various types and degrees of commensal and other forms of group exclusiveness.

21. The caste system was recreated/defined in the time of the late King Jayasthiti Malla. He mentioned four main castes, Brahmin, Chhetri, Vaishya and Shudra, and 16 sub-castes in each main caste. Further, he divided the castes on the basis of the division of labour in the country. The caste system was primarily hierarchical. Brahmin was identified as the highest caste and Shudra was the lowest. He described the system in his book, Human Behavioural Science, in the 1930s. Since then, members of the Shudra were identified as untouchable; they could not enter the houses of higher caste people and water touched by them was considered impure by the upper castes. The Brahmins had the most power; their duties were to guide, direct and create awareness of social values in society, perform ritual activities, etc. Punishments for the same crime were also different according to whether it was committed by a Brahmin, a woman or a person belonging to a lower caste. Deep social rifts and distance separated the high caste groups from those caste groups regarded as untouchables.

22. Racial discrimination in Nepal was legally abolished by the enactment of the National Code, 1963 (*Muluki Ain*), but it persists in rural areas. For an overwhelming majority of people, the caste system continues to be an extremely salient feature of personal identity and social relationships and, to some extent, determines access to social opportunities. Therefore, the human development indicators for occupational castes (so-called lower castes) are lower than for other castes. The caste system is weakening considerably in urban areas, workplaces and areas of high migration. There are also instances of a household or an individual having gone up in caste, even in the rural, indigenous areas, on account of the acquisition of wealth/income, learning or the adoption of particular modes of life.

G. Social development trends

23. Nepal is fortunate to have social peace and harmony despite its multi-ethnic and multi religious national character. It has religious tolerance. Social security and welfare form an important part of the national agenda and are considered an integral part of all-round development of the country.

24. The health sector in Nepal has been somewhat successful in achieving the development of an institutional network for the delivery of services up to the local level. However, in the absence of effective interventions in the technical and managerial domains, there has not yet been a positive impact on

the health status of the rural people. An analysis of demographic and disease patterns indicates that preventive infectious diseases, maternal and prenatal disorders and nutritional deficiencies are still the predominant diseases, though showing a declining trend.

25. There has been a significant improvement in the education sector over the years. The adult literacy rate has increased from 24 per cent in 1981 to 40 per cent in 1996. The lowest literacy is among the occupational castes. Women constitute more than two thirds of the illiterates. The net enrolment ratios are 70 per cent for the primary level, 45 per cent for the lower secondary level and 36 per cent for the secondary level. However, Nepal still lags far behind in general, technical and vocational education.

26. Due to the slow growth of socio-economic opportunities, achieving the goals of social development has proved to be an uphill task for the Nepalese people. Moreover, the resources to expand and develop health, education, shelter, drinking water and sanitary facilities are relatively limited. Social development activities are more limited in backward communities as compared to other ethnic communities.

II. SPECIAL MEASURES RELATING TO SPECIFIC ARTICLES OF THE CONVENTION

A. Article 2

27. That all citizens have equal rights is a principle of the Constitution of the Kingdom of Nepal, 1991 and all branches of government are devoted to giving it concrete form. Article 11 of the Constitution stipulates that all citizens are equal before the law and entitled to the equal protection of the law in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination. Article 11 (2) of the Constitution states that there shall be no discrimination in the application of general law on grounds of religion, race, sex, caste, tribe, ideological conviction or any of these. However, special legal provisions may be made for the protection and advancement of the interests of women, children, the aged, or those who are physically or mentally disabled or those who belong to a class which is economically, socially or educationally backward. Similarly, article 11 (4) provides that no person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities. Any contravention of this provision is to be made punishable by law.

28. The *Muluki Ain* (hereinafter referred to as National Code) has prohibited any sort of discrimination on the basis of caste, any denial of access to public places or public utilities, and provides for a punishment of one year's imprisonment or a find of 3,000 rupees or both for violators of this provision.

29. Section 3 of the Civil Liberties Act (Nagarik Adhikar Ain), 1954 deals with equality before the law and equal protection of the law; section 4 prohibits any restrictions against any citizen on the basis of religion, race,

sex, caste, or any of these in appointment to the civil service. The Act has provided for positive discrimination in favour of the socially or culturally backward ethnic groups.

30. Again, even in times of an emergency - declared under article 115 of the Constitution - the right to equality stipulated in article 11 of the Constitution may not be suspended.

31. According to the Constitution the guarantee of basic human rights to every citizen is a fundamental and unalterable part of the Nepalese political structure. In order to materialize this norm, Part 3 of the Constitution is devoted to the fundamental rights comprising, to a very large extent, the human rights recognized by the international community. Article 18 of the Constitution grants each community residing within the Kingdom of Nepal the right to preserve and promote its language, script and culture, as well as to operate schools up to the primary level in its mother tongue for imparting education to its children.

32. Article 25 envisages the principal objective of the State as being the promotion of the general welfare on the basis of the principles of an open society by establishing a just system in all aspects of the national life, including the social, economic and political life, while at the same time protecting the life, liberty, and property of the people. The State's fundamental economic objective is to transform the national economy into an independent system by preventing the country's available resources and means from being concentrated within a limited section of society, by making arrangement for an equitable distribution of economic gains on the basis of social justice.

33. The Compensation Act on Torture, 1997 states that each and every citizen, irrespective of caste, religion, ethnicity, colour and race, has the right to claim compensation from the Government for cruel, inhuman or degrading treatment received during any trial, investigation or inquiry. The Social Welfare Act, 1992 has provisions for taking the necessary steps to protect and promote the interests of socially backward communities.

34. The Local Government Act, 1992 comprises the District Development Committee Act, the Village Development Committee Act and the Municipality Act. The Act authorizes the District Development Committee and makes it responsible for forming a subcommittee comprising members of backward communities to make plans for the protection of their interests. The local bodies are responsible for protecting and promoting the interests of different communities, religions, languages and cultures. In addition, while formulating plans Village Development Committees and municipalities are obliged to give priority to programmes which directly benefit backward communities.

35. Similarly, other Acts like the Children's Act, 1992, the Development Bank Act, 1996 and others have provisions to protect and promote the interests and development of backward communities.

36. The Supreme Court has the extraordinary power to issue necessary and appropriate orders for the enforcement of the fundamental rights of citizens and of any other legal right for which no other remedy has been provided, or

for redressing situations for which a remedy, even though provided, appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

37. His Majesty's Government of Nepal does not sponsor, defend or support racial discrimination by any persons or organizations. Hence, Nepal has adopted the necessary constitutional and legislative measures to give effect to the rights recognized in the Convention.

38. The attempt/campaign to eradicate racial discrimination started with a popular movement in 1951 and ended legally with the promulgation of the Civil Liberties Act, 1954 and the National Code in 1963. However, racial discrimination in the society, especially in rural areas, is still in existence. So-called untouchables cannot even enter the houses of the people of so-called higher and middle-class castes. On one hand, they are socially suppressed by the upper classes and, on the other hand, they suffer from poverty; the intensity of poverty seems to be higher in socially backward people.

39. The role of repressed people or socially backward communities was also significant in the movement to restore multi-party democracy in 1990. After that for eight years those people were unable to secure the expected reforms for their communities.

Efforts to promote the welfare and development of backward communities

40. During the Seventh Plan (1985-1990), the Government implemented some social security programmes such as a scholarship programme and a rehabilitation and research programme for the nomadic Raute people, which included training for backward and unprivileged communities. A project to settle the Raute was initiated. The Eighth Plan (1992-1997) included social welfare programmes and local development programmes such as socio-economic development of backward communities, social security, scholarship programmes, skills-development training, rural self-employment, rehabilitation, social awareness-raising programmes, etc. In fiscal year 1997/98, the Ministry of Women and Social Welfare has provided financial assistance for socially disadvantaged communities/castes (Badi, Mushar, Ghanghar, Dome, Dushar, Raute, Satar, Dhimal, Chhamar, Damai, Kami, Sharki, Tharu, Sunuwar, Khatwe and Kumal) to promote their traditional technology. However, programmes to raise the status of repressed people and backward communities were not addresssed in national policies and programmes in an integrated way.

41. Non-governmental organizations had also conducted various programmes for poor and under privileged people relating to the education, health and welfare of women, children and youth.

42. In addition, awareness creation, income generation, education and health facilities programmes were implemented to address the problems of the backward communities. However, the gap between so-called higher and lower castes has

not narrowed. There have hardly been any changes in the society or the living standard of the poor. Consequently, the people of backward communities have felt discriminated against and could not believe that the Government was doing anything for their welfare and development. The main reasons for this are: lack of integrated programmes, weak implementation and sustainability, failure to mainstream backward communities and repressed people into the national development process, centre-oriented/based programmes rather than community-based/participatory programmes, little attention to human resource development and lack of encouragement to the development and modernization of traditional occupations and skills, lack of effective institutional mechanisms, etc.

43. His Majesty's Government of Nepal has adopted specific policies, strategies and programmes for the socio-economic development of repressed people/backward communities in the Ninth Plan (1997/8-2002/3), and will make them partners with other people/communities in the national development process/campaign.

44. His Majesty's Government of Nepal has a long-term perspective for the development and rights of the backward communities. Programmes will be formulated and implemented with a view to:

- enabling people of backward communities to participate as partners with others in the national development process;

- creating an environment to develop their personality while promoting their skills, experience and creativity;

- eradicating racial discrimination and social imbalances through the socio-economic development of those communities/ethnic groups;

- eliminating poverty and unemployment within 20 years;

- promoting national cultural development through conservation and research into the traditions and cultures of the repressed people/backward communities.

45. The long-term objectives of the National Plan of Action on Nutrition include strengthening and upgrading the Small Farmer Development Programme and the Production Credit for Rural Women Programme to provide self-employment and income-generating opportunities to socially and economically backward sections of the society.

46. The Ninth Plan (1997/8-2002/3) has specific objectives for the development of repressed people/backward communities which are given below in brief:

- Eliminate irrational traditions and socially deep-rooted racial discrimination by the socio-economic development of repressed and backward community;

- Increase their socio-economic capabilities by modernizing their traditional professions, and mainstream their contribution into the national development process;

- Prepare an appropriate social base for the balanced allocation of the country's resources;

- Raise the level of overall cultural development by preserving the culture of different ethnic groups and by eradicating the feeling of social discrimination;

- Improve the living standard of backward communities, focusing on the access to health, education, training, income generation, cultural conservation facilities, etc.

47. The goals of the policies and strategies of the Ninth Plan are to:

- Empower repressed people and backward communities by creating a participatory process for socio-economic development;

- Introduce new initiatives and improve structural and institutional mechanisms for the development of backward communities;

- Spend a certain percentage of the government grants provided to Village Development Committees for uplifting socially backward communities;

- Encourage NGOs to work for the all-round development of repressed peoples and backward communities;

- Implement programmes, with support/soft loans, for developing their education, health, drinking water situation, etc;

- Encourage and provide scholarships to students of those communities up to higher technical/vocational education;

- Implement integrated programmes, with their participation, for their development.

48. The institutional arrangements and implementation procedure for the programmes mentioned in the Ninth Plan are as follows:

(a) Establish a national-level council for backward communities to formulate policies and programmes, coordinating the work of district and national agencies preserving the culture and occupations of backward communities, and establish district-level committees for those communities in close coordination with District Development Committees;

(b) District-level committees, consisting of representatives of Village Development Committees, will have a separate mandate to develop backward communities, formulating plans and programmes and implementing them;

(c) District-level committees will work with NGO partners to implement development activities for socially and economically backward communities. The committees will send recommendations and suggestions to the council and central-level agencies for the development of backward communities.

49. His Majesty's Government of Nepal has been continuing the scholarship programmes for the students of socially backward communities. In addition, all students of those backward communities and occupational castes get NRs. 25 for 10 months of the year as motivation.

50. Elements of the human resource development programmes for backward communities include:

- Raising awareness in order to increase access to formal and non-formal education and training;

- Providing priority access, especially to technical education, for students of backward communities;

- Providing primary education in the mother tongue as far as practicable;

- Special programmes like family planning, maternal and child health, etc. will be implemented in backward communities on a priority basis;

- Providing female health volunteer training to women of those communities to enable them to work in their areas;

- Encouraging them to learn different skills for employment and providing them with training loans, on the recommendation of the district committee, to be paid back in instalments;

- Mass social awareness creation against all forms of discrimination;

- Special attention will be given to raising their living standard and their levels of health and education;

- The phased implementation of the above programmes;

- Encouraging social workers, communities and institutions to contribute to eradicating social inequality, racial discrimination and the development of backward communities.

51. Other economic and social development programmes include:

- Encouraging backward communities to undertake different traditional and modern income-generating activities, with seed money provided by the government;

- Establishing a museum to conserve and develop their arts and cultures, and establishing a study centre on the repressed peoples and backward communities;

- Creating opportunities for employment and income generation for them through committees at different levels;

- Motivating them to explore their skill and capacities.

52. His Majesty's Government of Nepal is making every effort to eliminate all forms of socio-economic discrimination, including racial discrimination. The above-mentioned legal provisions, policies, strategies and programmes are indicative of the commitment to the Convention.

53. About 10 NGOs concentrate on the welfare, development and rights of repressed peoples and backward communities and advocate and work for the development and rights of those sectors of the society.

B. Article 3

54. His Majesty's Government of Nepal does not have public policies of racial segregation on apartheid. Similarly, the Government does not have public policies which favour or incite discrimination or separation resulting from such policies.

C. Article 4

55. As mentioned above, no discrimination exists in Nepal, either in terms of legal provisions or of policy and programme measures. The National Code prohibits any sort of discrimination on the basis of caste, any denial of access to public places and public utilities, and provides for the punishment of violators of this provision. The Civil Liberties Act, 1954 prohibits any restrictions against any citizen on the basis of religion, race, sex, caste, or any of these in appointments to the civil service and the Constitution stipulates that all citizens are equal before the law.

56. Hence, all legal measures are against propaganda and organizations which are based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form. Further, it is not allowed to disseminate ideas based on racial superiority or hatred, to incite racial discrimination, to commit any act of violence or incite others to commit such acts against any race or group of persons of another colour or ethnic origin. There is no provision of assistance, including financial, to racist activities. In addition, no public authorities or institutions are permitted to promote or incite racial discrimination. His Majesty's Government of Nepal does not sponsor, defend or support racial discrimination by any persons or organizations.

57. In Nepal, no news item, article or other reading material is censored which may jeopardize the harmonious relations subsisting among the people of various castes, tribes or communities.

D. Article 5

58. As mentioned above (art. 2), His Majesty's Government of Nepal has provided equal rights to Nepalese people in all aspects.

59 Article 14.1 of the Constitution states that no person may be punished for an act which was not punishable by law when the act was committed, nor shall any person be subjected to a punishment greater than that prescribed by the law in force at the time of the commission of the offence. Any person held under preventive detention shall, if the detention was contrary to the law or in bad faith, have the right to be compensated in a manner as prescribed by law.

60. Any person, without distinction as to race, colour or ethnic origin, has the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution. Similarly the right to an affective remedy is provided under the Constitution and existing laws.

1. Civil and political rights

61. The Constitution guarantees political rights without any discrimination by reason of race, colour, religion, sex or ethnic origin. Article 47 of the Constitution considers any citizen of Nepal having attained the age of 25 years to be eligible to be a candidate for Parliament. The Parliament Member Election Act, 1990 provides that any citizen having attained 18 years of age is considered eligible to vote in his/her own constituency for the member of parliament, provided that he/she has registered and his/her name appears on the voting list published by the Election Commission. No eligible persons are deprived of the exercise of their voting/civil rights.

62. According to the Local Bodies Election Procedure Act, 1991 any Nepalese citizen having permanent domicile or residing more than a year in the local area concerned and having attained 18 years of age is considered to be eligible to vote and any citizen having attained the age of 21 years is considered eligible to be a candidate for the concerned local body.

63. Irrespective of race, caste, religion, creed, ethnicity or colour, every person who has his/her domicile in Nepal is eligible for citizenship by birth in Nepal, by having one parent who was born in Nepal, or by naturalization by virtue of section 6 of the Nepal Citizenship Act, 1964 (art. 8). A foreign woman who marries a Nepalese citizen is also eligible for citizenship.

64. The Constitution guarantees civil rights. All citizens have equal rights before the law and have the following freedoms:

(a) Freedom of opinion and expression;

(b) Freedom to assemble peacefully and without arms;

(c) Freedom to form unions and associations;

(d) Freedom to move throughout the Kingdom and reside in any part thereof; and

(e) Freedom to practise any profession or to carry on any occupation, industry or trade (article 12.2 of the Constitution).

65. These freedoms may be exercised with the following provisos:

(a) Nothing in sub-clause (a) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations among the peoples of various castes, tribes or communities, or on any act of sedition, defamation, contempt of court or incitement to an offence or on any act which may be contrary to decent public behaviour or morality;

(b) Nothing in sub-clause (b) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty, integrity or law and order situation of the Kingdom of Nepal;

(c) Nothing in sub-clause (c) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations among the peoples of various castes, tribes or communities which may instigate violence, or which may be contrary to public morality;

(d) Nothing in sub-clause (d) shall be deemed to prevent the making of laws which are in the interest of the general public, or which are made to impose reasonable restrictions on any act which may undermine the sovereignty and integrity of the Kingdom of Nepal, or which may jeopardize the harmonious relations among the peoples of various castes, tribes or communities;

(e) Nothing in sub-clause (e) shall be deemed to prevent the making of laws to impose reasonable restrictions on any act which may be contrary to public health or morality, to confer on the State the exclusive right to undertake specified industries, businesses or services, or to impose any condition or qualification for carrying on any industry, trade, profession or occupation.

66. Every person shall have the freedom to profess and practise his/her own religion as handed down to him/her from his/her forefathers and every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts (article 19 of the Constitution).

Right to marriage and choice of spouse

67. The legal age for marriage without parental consent is 21 years for males and 18 years for females whereas with parental consent the marriage age is 18 years for males and 16 years for females. The free will of the

prospective spouses is given due importance; however, in some cases, prospective spouses might face social obstructions if the man and woman come from different social standings/castes/ethnic groups.

68. According to the prevailing laws, a man and woman who have attained the marriageable age may register their marriage at the District Administration Office and are given a Certificate of Registration of Marriage duly signed by the concerned authorities.

2. Economic, social and cultural rights

69. Article 17 of the Constitution states that all citizens have the right to property subject to existing laws which cover the right to acquire, own, sell and dispose of such property.

70. To develop a healthy social life by eliminating all types of economic and social inequalities and establishing harmony amongst the various castes, tribes, religions, languages, races and communities is the social objective of the State. The State is also directed to pursue a policy of mobilizing the natural resources and heritage of the country in a manner useful and beneficial to the interests of the nation. Article 25 of the Constitution envisages the principal objective of the State as to promote conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of the national life, including social, economic and political life, while at the same time protecting the life, liberty and property of the people. The State's fundamental economic objective is to transform the national economy into an independent system by preventing the country's available resources and means from being concentrated within a limited section of society, and by making arrangements for an equitable distribution of economic gains on the basis of social justice.

(a) Right to work

71. The Constitution guarantees all citizens the right to practise any profession or to carry on any occupation, industry or trade. Hence, anyone has the right to gain his living by work which he freely chooses or accepts. As to the safeguarding of this right, article 23 provides the right to constitutional remedy, i.e. to proceed to the court for enforcement of the right.

72. Everyone has the right to work to earn his/her living. There are legislative measures to safeguard the rights of employees, including minimum wages and conditions of work, and from provisions to enforce the regulations of specific firms or organizations governing employment.

73. The Nepalese legislative framework has outlawed child labour. Children are strictly prohibited from being involved in any work in a factory. However, children have long been a source of income for poor families and backward communities. As long as families do not have alternative sources of income, child labour in one form or another will continue to exist. Hence, there are certain protective measures according to which minors (ages 14-18)

may work, fixing a basic minimum wage, providing opportunities for non-formal education and job-oriented training, basing work on the age, sex and physical and mental capacity of the minor, and reducing working hours.

74. The Ninth Plan of the country contains a long-term vision for poverty alleviation which includes targeted programmes for indigenous groups in the poverty-prone areas. Such programmes will include the Remote Area Development Programme, the Backward Ethnic Communities Upliftment Programme, programmes for socially backward and other depressed communities, relief programmes for landless rural families, a programme to provide loan facilities to small landholders, a programme to provide shelter and agricultural land to targeted communities, an employment programme for poor and unemployed people of urban areas among others.

(b) Right to enjoyment of just and favourable conditions of work

75. The Nepalese legislative framework has ensured that every citizen has the right to enjoy just and favourable conditions of work. Article 20 of the Constitution prohibits trafficking in human beings, slavery, serfdom or forced labour in any form. Hiring minors to work in any factory or mine or in any other hazardous work is also prohibited.

76. In 1991, the Labour Act was enacted to secure the rights, interests, facilities and security of workers and employees in different sectors. The Act stipulates that the minimum wages of workers and employees is determined by His Majesty's Government on the recommendation of the Minimum Wages Fixation Committee comprising representatives of workers or employees, management and the Government. It should be noted that any agreement between management and labour providing wages less than those prescribed by the Government is prohibited. Article 11 (5) of the Constitution explicitly prohibits any discrimination in remuneration between men and women for the same work.

77. Moreover, the Labour Act provides for various arrangements regarding the health and safety conditions of work that are applicable to both men and women employees on an equal footing. Depending on seniority and competence, each has an equal opportunity to get promotion. Chapter 3 of the Labour Act makes provisions on working hours. To engage any employee in work of more than 8 hours a day or 48 hours a week is proscribed. A weekly holiday should be given and remuneration for public holidays.

78. Nepal has become party to various ILO conventions including the Convention on Equal Remuneration (No. 111), the Convention concerning Minimum Wages Fixing (No. 131) and the Convention on Weekly Rest in Industrial Undertakings (No. 14).

(c) Right to form trade unions

79. Article 12.2 (c) of the Constitution stipulates that all citizens are free to form unions and associations of their choice. Section 6 (3) of the Civil Liberties Act also provides the citizens with this right. Under article 112 of the Constitution, citizens are entitled to form and operate

political organizations or parties of their choice. Restrictions on this right may be imposed only by law on the ground of a genuine threat to the sovereignty and integrity of the country or public order or morality.

80. The Trade Union Act, 1992 has been enacted to protect and promote the vocational and professional rights and benefits of workers in any enterprise or corporation. Under section 4 of the Act, workers at any enterprise are allowed to form trade unions for the protection of their professional interests, and at least 50 trade unions or 5,000 workers at enterprises of a similar nature can, by agreement, form a trade union association. Under section 5, at least 10 trade union associations can, by agreement, form a trade union confederation. Under section 18, a trade union is made an autonomous and legal person or body and is free to function, subject to the provisions of the Act. Furthermore, the workers of any enterprise have, under section 76 of the Labour Act, the right to protest.

(d) Right to enjoyment of the highest attainable standard of physical and mental health

81. Article 26 of the Constitution directs the State to pursue policies that will raise the people's standard of living through the development of health, education, housing and employment opportunities. It also directs the State to pursue such policies in the fields of education, health and social security that will ensure the protection and welfare of orphans, helpless women, the aged and the disabled. It thus recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

82. His Majesty's Government adopted a comprehensive National Health Policy in 1991 with the objective of enhancing the health status of the people and developing the health sector in Nepal, both from the perspective of service delivery and of the administrative structure of the health system. The Policy classifies health services as preventive, promotional or curative, and makes arrangements for different levels of health institutions accordingly. The health policies of the Eighth Plan (1992-1997) were also in line with the National Health Policy.

83. Health education, information and communication programmes have been conducted in an integrated way. Nutrition programmes and growth monitoring of children are being implemented. Vitamin A and iodized salt are being distributed at the grass-roots level. Health services are being provided to children for controlling diarrhoeal diseases, acute respiratory infections and other prevalent diseases. Homeopathy and natural and traditional methods of health services are also being promoted to provide health services to the masses.

84. The health policy adopted in the Ninth Plan has incorporated a 20-year vision for primary health care. It has considered health as part of human rights and an effective measure to control population.

85. The policies and strategies in the Ninth Plan include: implementing the long-term National Health Plan; providing an integrated basic health-care package up to the village level; providing integrated basic health-care services on the basis of a referral mechanism; strengthening of the curative

health service, on the basis of a referral system, in basic health institutions and hospitals; provision of trauma health service facilities; providing reproductive health services up to the village level and demand-driven family planning services; developing a package programme including manpower, medicines and equipment, taking into account the concept of cost-effectiveness; and mobilization of the private sector and NGOs together with the Government for the development of the health sector. The other health policies include the development of ayurvedic services as an integral part of health services; effective planning, management and implementation of health services through a decentralized policy and process; implementation of a health personnel development plan; reforming the national health policy and laws; increasing resources for the health sector; and mobilization of the private sector and NGOs for resource generation. These policies and programmes will hopefully improve the health status of the people, including the backward communities.

(e) Right to education

86. Article 18 of the Constitution states that each community residing within the Kingdom of Nepal shall have the right to preserve and promote its language, script and culture, and that each community has the right to operate schools up to the primary level in its own mother tongue. Part 4, article 26, of the Constitution says that the "State shall pursue a policy of raising the standard of living of the general public through the development of education, health, housing and employment."

87. His Majesty's Government is fully aware of the importance of education to people. Therefore, education has been given due importance since the Government began implementing economic development plans. Nepal is endeavouring to attain the goal of basic education for all and in this context school education has now been made free. No fee of any nature will be charged by any primary school in the country. Textbooks up to grade five are also given to the students free of charge.

88. His Majesty's Government has a policy of expanding access to basic and primary education by increasing the number of primary schools. Moreover, new initiatives will be taken in the Ninth Plan to make primary education compulsory. Necessary arrangements will be made to empower local bodies to enforce free and compulsory primary education. Efforts are under way to make both secondary education and higher education accessible to the people as needed. One of the objectives of education, as identified by the National Commission on Education, is to support backward and underprivileged people to participate in the national mainstream.

89. The national literacy rate was 42 per cent as of 1996/97, 57 per cent among males and 27 per cent among females. The literacy rate among people of socially backward ethnic groups is lower than that of other ethnic groups. In order to increase the literacy rate, non-formal education schemes, particularly literacy programmes, will be implemented as a national campaign. For the out-of-school children of 6-14 years of age, it is envisaged to provide education through non-formal approaches such as the village-based "Chelibeti" and "Sikchya Sadan" programmes. The Government's efforts in this regard are being supported by international organizations.

90. There are several schemes to support poor but bright students through scholarships at every level from the primary school up to the university level.

91. In schools, attention is given to inculcating the values of tolerance, friendship, understanding, cooperation, racial harmony and other moral traits.

(f) Right to social security, including social insurance

92. The objectives of the welfare State can be realized with the improvement of the socio-economic status of backward communities. Social welfare programmes play a very important role in promoting social justice and welfare and in delivering basic services to save people from destitution. The goal of establishing a welfare State can be achieved only by making social security and social welfare an inseparable part of the comprehensive development strategy. Needs-specific programmes geared to specific target groups are essential for an effective impact. Similarly, an effective delivery mechanism relating to social welfare activities will need to forge a partnership between government agencies and NGOs. Senior citizens, disabled persons, deprived and oppressed groups of society and the common people as a whole can feel a sense of social security and welfare only if effective and targeted special programmes are implemented in various sectors such as education, health, community development, women and child development.

93. Article 26 (9) of the Constitution proclaims that the State shall adopt policies in matters of education, health and social security for the protection and welfare of orphans, helpless women, the aged and the disabled. The Village Development Committee Act of 1991 states that the Village Development Communities shall carry out programmes for the benefit and welfare of children and women.

94. Securing pubic trust is the most important challenge and goal of good governance or a State system. Social integration fosters unity and encourages collective work to achieve a common social goal. One of the major goals of social development is to create a sense of belonging in the society and the nation. Social integration can be encouraged by ensuring: (a) equality before the law; (b) minority rights; (c) protection of the interests of the disadvantaged and weaker sections of society; (d) effective implementation of anti-discrimination policies; (e) educational opportunities; and (f) effective governance.

95. In 1995, His Majesty's Government made a beginning with regard to social protection. The budget for 1994/95 introduced a programme to provide an old-age benefit of NRs. 100 per month for every person over 75 in five districts; the programme was expanded to cover all districts in 1995/96. Later, schemes to provide NRs. 100 per month to helpless widows over 60 and an allowance of NRs. 100 per month for permanently physically and mentally disabled persons. In addition, various provisions such as a monthly stipend of NRs. 25 each for about 75,000 female students in 10 remote mountain districts, free lunch for about 200,000 primary students in 8 districts, and the establishment of old-age homes in each development region and, later, in

each district were also adopted. A subsidized curative health service programme was launched in 1994/95 for senior citizens and children, including of backward communities.

96. The major objectives of social welfare programmes are: to protect the interests of the weak, helpless, socially and backward sections of society; to raise mass awareness in order to root out superstitious traditions of society; to inspire people to increase their spirit of cooperation in establishing a system to address common social problems; and to help people in time of severe hardship, irrespective of the reason.

E. Article 6

97. Articles 23 and 88 of the Constitution provide an effective remedy, including the ordinary and extraordinary jurisdiction of the Supreme Court of Nepal, for the protection of fundamental human rights. The extraordinary jurisdiction comprises habeas corpus, certiori, mandamus, quo warranto, prohibition and other necessary writs and orders.

98. The Compensation Act against Torture authorizes the competent District Court to hear cases of alleged torture. The Human Rights Commission Act authorizes the Human Rights Commission to take cognizance of the issue of the violation of human rights. The competent District Court has jurisdiction over the issue of discrimination under chapter 19 of the National Code, 1963.

Article 7

99. As mentioned above, His Majesty's Government has adopted non-discriminatory legal provisions. It has formulated immediate and periodic objectives and programmes to address the welfare and development of repressed people/backward communities. Similarly, immediate and effective measures have been taken, especially in the fields of social welfare, health, education, culture and income generation to combat the present situation of those communities. In view of the legislative measures and programme implementation measures described, it can be said that there is no discrimination against any race, tribe, sex, colour or religion in Nepal. However, a few discriminatory practices remain in the society rooted in social values which will take some years to fully eradicate.

III. CONCLUSION

100. Nepal is a country of multilingual and multicultural ethnic communities. the harmonious relationship between them is historically supported and established. The country has religious tolerance.

101. The equality of rights of citizens is a principle of the Constitution. All branches of current legislation are devoted to giving it a concrete form. Article 11 of the Constitution stipulates the equality of all citizens before the law and equal protection of the law as stipulated in the International Convention on the Elimination of All Forms of Racial Discrimination. Article 11 (2) of the Constitution states that there shall be no discrimination against any citizen in the application of general law on ground of religion, race, sex, caste, tribe or ideological conviction or any of

these. However, special legal provisions may be made for the protection and advancement of the interests of women, children, the aged, those who are physically or mentally disabled or those who belong to a class which is economically, socially or educationally backward.

102. His Majesty's Government has made efforts to implement programmes to improve the overall situation of socially and economically backward communities and ethnic groups, notably after the restoration of multi-party democracy in the country. Programmes to address the repressed people and backward communities were implemented during the period of the Eighth Plan or after the restoration of democracy. Notwithstanding, no significant change in the socio-economic life of the targeted people/communities occurred; in fact, it is obvious that it takes time to change the social status of communities. His Majesty's Government has not yet done an evaluation of the impact of those programmes to find out what changes have taken place in the targeted communities. It sought to conduct research to determine to what extent goals had been achieved and what and how the programmes are to be formulated and implemented.

103. In essence, existing legislative measures, past efforts made to improve backward communities, and policies and programmes adopted in the Ninth Plan indicate the firm commitment of the Government to the development and rights of repressed people/backward communities.

Annex

Human development by caste and ethnicity, 1996

Caste	Life expectancy	Adult literacy (%)	Mean yrs of schooling	Per capita income (US$)	Per capita purchasing power parity (PPP) income (US$)	Life exp. index	Educational attainment index	Income index	Human development index (HDI)	Ratio to national HDI Nepal = 100
Nepal	55.0	36.72	2.254	7 673	1 186	0.500	0.295	0.179	0.325	100.0
Brahmin	60.8	58.00	4.647	9 921	1 533	0.597	0.490	0.237	0.441	135.87
Chhetri	56.3	42.00	2.786	7 744	1 197	0.522	0.342	0.181	0.348	107.31
Newar	62.2	54.80	4.370	11 953	1 848	0.620	0.462	0.289	0.457	140.73
Gurung, Magar, Sherpa										
Rai, Limbu	53.0	35.20	2.021	6 607	1 021	0.467	0.280	0.152	0.299	92.21
Muslim	48.7	22.10	1.358	6 336	979	0.395	0.178	0.145	0.239	73.67
Rajbansi, Yadav,										
Tharu, Ahir	58.4	27.50	1.700	6 911	1 068	0.557	0.221	0.160	0.313	96.28
Occupational castes*	50.3	23.80	1.228	4 940	764	0.422	0.156	0.110	0.239	73.62
Others	54.4	27.60	1.880	7 312	1 130	0.490	0.226	0.170	0.295	90.94

Source: Nepal Human Development Report, 1998.

* "Occupational castes" mostly indicate the so-called "Untouchables" of the Hills and Tarai (Plains part of the country).